

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

_____	)	
CAPPSEALS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	C. A. No. 05-CV11907-JLT
DIRECT MARKETING CONCEPTS, INC.	)	
et al.,	)	
	)	
Defendants.	)	
_____	)	

**JOINT STATEMENT OF PARTIES  
PURSUANT TO LOCAL RULE 16.1(D)**

Plaintiff Cappseals, Inc. and defendants Direct Marketing Concepts, Inc., ITV Direct, Inc., Donald W. Barrett and Robert Maihos hereby respectfully submit this Joint Statement of Parties Pursuant to Local Rule 16.1(D) in preparation for the Court's upcoming Initial Scheduling Conference, set for May 2, 2006.

The parties hereby state that they have conferred on the subjects outlined in Fed. R. Civ. P. 16 and 26, and Local Rule 16.1, and wish to propose the following Pretrial Schedule and Discovery Plan for this action:

1. The parties propose that each side be limited to a total of (a) not more than fifteen (15) interrogatories per side, including discrete sub-parts; not more than fifteen (15) requests for admission, per side, including discrete sub-parts; and (c) not more than one (1) set of requests for production of documents and tangible things, with the understanding that narrow follow-up requests for production may be made in connection with deposition discovery, which shall not be counted as "sets of requests" for purposes of this limitation.

2. Each side shall be permitted a total of seven (7) depositions, including Rule

30(b)(6) depositions,\* but excluding expert depositions. The parties reserve the right to seek approval from the Court for additional depositions, in the event that should be necessary.

3. Accordingly, the parties propose the following schedule for the Court's consideration:

a. The Production of Documents identified in the parties Local Rule Disclosures shall occur by June 30, 2006.

b. Each party to serve (or join in the service of) initial Rule 34 Requests for Documents on or before June 30, 2006. Each responding party to serve its written response thereto (including any objections), and to produce whatever documents it is producing in response thereto, within the time required by Rule 34 unless an extended time is stipulated, but in any event no later than July 31, 2006. Additional document requests may be served at any time thereafter, and shall be answered within the time required by Rule 34 unless an extended time is stipulated.

c. Each party shall serve (or join in the service of) initial Rule 33 Interrogatories on or before July 3, 2006. Each responding party to serve its written responses thereto (including any objections) within the time required by Rule 33 unless an extended time is stipulated, but in any event no later than September 1, 2006. Additional interrogatories may be served at any time thereafter, and shall be answered within the time required by Rule 33 unless an extended time is stipulated.

d. Requests for Admissions may be served at any time, and each responding party shall serve its written responses thereto (including any objections) within the time required by Rule 36 unless an extended time is stipulated; otherwise the matters specified shall be

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\* A 30(b)(6) deposition notice counts as one deposition.

deemed admitted.

e. The parties may take depositions at any time, but on or before July 3, 2006, the parties shall exchange lists of the individuals that they intend to depose, specifying the order in which they wish to depose them, and shall confer and attempt to establish a schedule of times and locations for the taking of these depositions that is mutually convenient to all concerned. If agreement cannot be reached, each party reserves its right to seek relief from the Court.

f. If requested by either party, the Court shall hold a Status Conference with the parties on August 15, 2006 to receive reports from the parties on the status of discovery, and the projected schedule for its completion. Subject to any adjustments made by the Court at that time, all fact discovery shall be concluded by September 29, 2006.

g. The parties shall file any additional dispositive motions on or before October 2, 2006. Any oppositions to those motions shall be filed on or before October 23, 2006, and reply briefs on or before November 7, 2006. A hearing on dispositive motions will be held on or after November 30, 2006.

h. Plaintiff's expert reports shall be served on or before January 3, 2007, or 45 days after the resolution of any dispositive motions, whichever is later. Defendant's expert reports shall be served 30 days after service of plaintiff's expert reports.

i. The Final Pretrial Conference shall be scheduled thereafter.

4. The parties do not wish to have a trial before a United States Magistrate.

5. Plaintiff Cappseals, Inc. has served a written settlement proposal on defendants in accordance with Local Rule 16.1(C).

6. The parties will submit the executed certifications required by Local Rule

16.1(D)(3) affirming that each party has conferred with its counsel with respect to the costs of this litigation and consideration of alternative dispute resolution at the Initial Scheduling Conference.

Respectfully submitted,

CAPPSEALS, INC.

By its attorneys,

s/Scott A. Silverman

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Respectfully Submitted,

DIRECT MARKETING CONCEPTS,  
INC, ITV DIRECT, INC., DONALD W.  
BARRETT and ROBERT MAIHOS

By their attorneys,

s/Christopher F. Robertson

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